



MATTHEW L. SCHWARTZ
Tel.: (212) 303-3646
E-mail: mlschwartz@bsfllp.com

May 22, 2024

BY ECF

Hon. Ronnie Abrams
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Jason Galanis, et al.*, 16 Cr. 371 (RA)

Dear Judge Abrams:

We represent the defendant Devon Archer and write in response to the Court's May 15 Memorandum Opinion and Order [ECF No. 1095], which granted Mr. Archer's habeas petition and directed the parties to "propos[e] dates for Archer's resentencing and a schedule for any accompanying submissions" by today.

The parties agree that as an initial step, the Court should order the Probation Department to prepare a revised Presentence Investigation Report. As the Court will recall, Mr. Archer's PSR was originally prepared in late 2018 following trial [ECF No. 633], and revised by the Probation Department in January 2022 in advance of his initial sentencing [ECF No. 1009]. As more than two years have passed since the Probation Department last revised Mr. Archer's PSR, the parties believe it would be appropriate to order a revised PSR to reflect any relevant personal, financial, professional, and legal developments. *See generally Pepper v. United States*, 562 U.S. 476 (2011) (holding that, on resentencing, a "District Court should consider and give appropriate weight to that evidence [*i.e.*, evidence of the defendant's 'postsentencing rehabilitation'], as well as any additional evidence concerning [the defendant's] conduct since his last sentencing.").

The parties respectfully request, upon receipt of the revised PSR, that they then be afforded an opportunity to propose an appropriate schedule for supplemental sentencing submissions. In addition to the need for a revised PSR to be prepared, Mr. Archer continues to cooperate with Congressional and other ongoing investigations. For example, last month, the House Oversight and Accountability Committee, as well as the House Judiciary Committee, issued subpoenas to Mr. Archer to produce documents in connection with their legislative responsibilities. *See* <https://tinyurl.com/wncb7vew>. Mr. Archer was never served with those subpoenas, but he did subsequently produce documents voluntarily to the Committees, and continues to do so.

Mr. Archer is also expected to give rescheduled public testimony before (at least) the House Oversight Committee in the coming weeks, although a precise hearing date has not yet been set.¹ Mr. Archer may be needed for other testimony, as well, of which the government is aware, making setting a precise schedule for submissions or a resentencing date premature.

Thank you for your consideration.

Respectfully,

/s/ Matthew L. Schwartz

Matthew L. Schwartz

¹ The Oversight Committee “invited” Mr. Archer to testify publicly at a hearing on Wednesday, March 20, 2024, *see* <https://tinyurl.com/8xhzsv2m>, but failed to actually notify Mr. Archer or his counsel of record until late in the day on Friday, March 15th. Mr. Archer was unable to appear in Washington, D.C. on such short notice, but we have been in discussions with Committee staff to reschedule Mr. Archer’s appearance. The government has previously affirmatively requested to Your Honor that Mr. Archer’s “surrender date, should the Court order,” occur “after the defendant’s Congressional testimony is completed.” [ECF No. 1074].